

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X	
JOEL F. HOLUBAR,	:
&	:
MARIANA H. HOLUBAR,	:
	:
Plaintiffs,	:
	:
v.	:
	:
KENT KHOLBERGER;	:
THE CHASE FREEDMAN-FAMILY TRUST;	:
&	:
M/Y CHEROSA, <i>in rem</i> ,	:
	:
Defendants.	:
	:
-----X	

Civil Action No. 03-CV-12404-NG

AFFIDAVIT OF KURT E. BRATTEN

I, Kurt E. Bratten, state as follows:

1. I am local counsel for Joel F. Holubar and Mariana H. Holubar, the Plaintiffs in the above-captioned case.
2. On June 16, 2004, I prepared and sent a letter to the Office of the Civil Clerk for the United States District Court for the District of Massachusetts ("June 16, 2004 Letter"). A copy of this June 16, 2004 Letter is attached hereto at Tab A.
3. Pursuant to this June 16, 2004 Letter, I filed with this Court, copies of Plaintiffs' Motion Pursuant to Rule 37 and a number of accompanying documents, including a Local Rule 7.1 Certificate of Compliance. See June 16, 2004 Letter, Tab A. A copy of the Local Rule 7.1 Certificate of Compliance is attached hereto at Tab B.

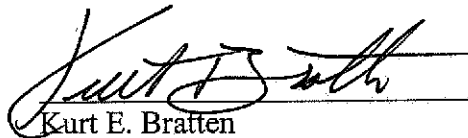
4. Prior to mailing the June 16, 2004 Letter, I reviewed the documents accompanying it, including the Local Rule 7.1 Certificate of Compliance attached hereto at Tab B which was included in those documents.

5. With the June 16, 2004 Letter, I also served copies of Plaintiffs' Motion Pursuant to Rule 37, the Local Rule 7.1 Certificate of Compliance attached hereto at Tab B and the other accompanying documents set forth in that letter, on Curtis C. Pfunder, Esq. and Edward C. Radzik, Esq., counsel to the Defendants. See June 16, 2004 Letter, Tab A.

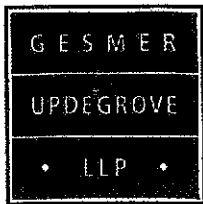
6. Pursuant to Local Rules 7.1 and 37.1, Attorney Bjorn Holubar and I held telephone conferences ("Conferences") with Attorney Edward Radzik and Attorney Curtis Pfunder at approximately 3:40 p.m. on June 14, 2004 and approximately 2:00 p.m. on June 15, 2004, respectively. The Conferences with Attorneys Radzik and Pfunder were held concerning the disputed discovery matters that are the subject of Plaintiffs' Motion Pursuant to Rule 37.

7. During the above-referenced Conferences, Attorney Holubar and I attempted in good faith to resolve or narrow the areas of disagreement to the greatest extent possible with counsel to the Defendants.

Signed under the pains and penalties of perjury this 8th day of July 2004.


Kurt E. Bratten

TAB A



Kurt Bratten
kurt.bratten@gesmer.com

Attorneys at Law

June 16, 2004

HAND DELIVERY

United States District Court
Office of the Civil Clerk
John Joseph Moakley U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts 02210

Re: *Joel F. Holubar, et. al, v. Kent Kholberger, et. al*
C.A. No.: 03-12404 NG

Dear Sir or Madam:

Enclosed for docketing and filing please find the following:

- 1) Plaintiffs' Motion Pursuant to Rule 37 and Notice of Motion;
- 2) Plaintiffs' Memorandum in Support of Plaintiffs' Motion;
- 3) Affidavit of Joel F. Holubar in Support of Plaintiffs' Motion;
- 4) Affirmation in Support of Plaintiffs' Motion with Exhibits 1-10 attached;
- 5) Local Rule 7.1 Certificate of Compliance; and
- 6) Certificate of Service.

Thank you.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kurt Bratten", is written over a horizontal line.

Kurt Bratten

Enclosures

cc: Bjorn Holubar, Esq. (first class mail)(w/o encl.)
Curtis Pfunder, Esq. (first class mail)(w/ encl.)
Edward Radzik, Esq. (first class mail)(w/ encl.)

TAB B

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

-----X
JOEL F. HOLUBAR,

&

MARIANA H. HOLUBAR

Plaintiffs,

v.

C.A. No.: 03-12404 NG

KENT KHOLBERGER;

THE CHASE FREEDMAN-FAMILY TRUST;

&

M/Y CHEROSA, *in rem*,

Defendants.
-----X

LOCAL RULE 7.1 CERTIFICATE OF COMPLIANCE

Counsel for plaintiffs, Joel F. Holubar and Mariana H. Holubar, hereby certifies that, pursuant to Rule 7.1(A)(2) of the Local Federal Rules of Civil Procedure, he (1) conferred with counsel for the defendants regarding the Motion to Compel and for Rule 37 Sanctions, filed herewith, and (2) has attempted in good faith to resolve or narrow the issues presented.

Date: June 16, 2004

JOEL F. HOLUBAR
and MARIANA H. HOLUBAR
By their attorneys,

Lee T. Gesmer (BBO #190260)
Kurt Bratten (BBO #644730)
Gesmer & Updegrove, LLP
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